

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL CASE NO. 1:11cr10

UNITED STATES OF AMERICA,

vs.

JAMES W. "BILL" BAILEY, JR.

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ORDER

THIS MATTER is before the Court on the Government's Motion to Correct Clerical Errors [Doc. 285].

The Government moves to amend the Consent Order and Judgment of Forfeiture [Doc. 16] ("Consent Order") previously entered in this matter. Specifically, the Government moves to amend the Consent Order to reflect that "any and all interests secured by a Mortgage Security Agreement on file at the New York City Department of Finance, Office of the City Register, Document 2009061601107002, in regard to real property at Manhattan Borough Block 1497, Lot 1001, also known as 1049 5th Avenue" [see Doc. 16 at ¶ VI(t)] is not an asset titled in the name of an LLC established by the Defendant and/or Southern Financial Services. [Doc. 285 at 4]. The Government further moves to correct the parcel number of the property

described in the Consent Order as “the real property at 1525 NW 57th St, Unit 626, Seattle, Washington, more particularly described as Parcel Number 20080917000400 in the King County Register of Deeds” [see Doc. 16 at ¶ VI(c)]. The Government characterizes both of these proposed amendments as “clerical mistakes” that are subject to correction and/or modification pursuant to Rule 32.2(b)(2)(A) and (C) and Rule 36 of the Federal Rules of Criminal Procedure. [Doc. 285 at 5].

Petitioners Dr. Richard J. Lessow, M.D., individually and in his capacity as owner/beneficial owner of the fictitious Lessow Real Estate IRA and the fictitious Richard J. Lessow Real Estate IRA, LLC, has filed a response, indicating his opposition to the Government’s Motion. [Doc. 277]. Petitioners Peter L. Contrastano, the Peter L. Contrastano Individual Retirement Account, and Peter L. Contrastano Real Estate IRA, LLC (collectively, “Petitioner Contrastano”) filed a pleading during the stay of this matter indicating that they would file a response in opposition to the Government’s Motion once the stay was lifted. [Doc. 288]. No response, however, has been filed to date.

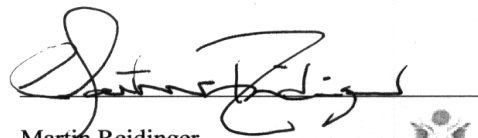
Upon review of the Government’s Motion, the Court concludes that the proposed amendments to the Consent Order could have significant substantive implications for the above-referenced Petitioners’ claims. As

such, the Court will allow the parties to address these issues further when briefing any motions for summary judgment and/or responses thereto. If no such motions are filed with respect to Petitioner Contrastano's claim, then Petitioner Contrastano may file a Response in opposition to the Government's Motion to Correct Clerical Errors on or before May 9, 2012.

IT IS, THEREFORE, ORDERED that the Government's Motion to Correct Clerical Errors [Doc. 285] is **HELD IN ABEYANCE** pending further briefing by the parties.

IT IS SO ORDERED.

Signed: April 18, 2012



Martin Reidinger
United States District Judge

